

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RACHEL YOUNGER, Individually and as Administrator of the Estate of NATHANIEL YOUNGER,	:	Civil Action No.: 11-civ-1173 (TPG)
	:	
	:	
Plaintiff,	:	
	:	
	:	
v.	:	
	:	
	:	
ZURICH AMERICAN INSURANCE COMPANY, ZURICH LIFE INSURANCE COMPANY and UBS FINANCIAL SERVICES, INC.	:	
	:	
	:	
Defendants.	:	
	:	
	:	

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that defendant Zurich American Insurance Company (“Zurich American”), through its attorneys White and Williams LLP, upon a certification of Andrew I. Hamelsky, dated May 5, 2011, and a memorandum of law, shall move before this Court at a time to be determined by the Court, before the Honorable Thomas P. Griesa, U.S.D.J., for an order providing that (1) the motion is granted; and (2) the complaint is dismissed pursuant to Fed. R. Civ. P. 12(b)(6), on the basis that the claim for relief is preempted by ERISA; or (3) in the alternative, (a) the complaint is recharacterized to assert solely a claim pursuant to 29 U.S.C. § 1132(a)(1)(B), (b) the complaint’s demand for a jury is stricken, and (c) “Zurich Life Insurance Company” be stricken from the caption and complaint in this action.

Date: May 5, 2011

Respectfully submitted,

s/ Andrew I. Hamelsky

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